

REMARKS

This application provides for, *inter alia*, herbicidal compositions which may be used against harmful plants in tolerant or resistant crops of sugar beets. The inventive compositions and methods using a herbicidal composition comprising a combination of at least two different specific herbicides for controlling harmful plants in tolerant or resistant sugar beet crops. Applicants discovered that the inventive combinations exhibit synergistic activity against weeds when used in a field of tolerant or resistant sugar beet crops.

It is believed that no fee is required for the consideration of this Amendment. If, however, a fee is due, the Assistant Commissioner is authorized to charge such fee to Deposit Account 50-0320.

This Amendment supplements the Amendment filed on March 25, 2002. By this Amendment Applicants amend composition claims 30 and 35 so that compositions comprising combinations of glyphosate-like compounds and quizalofop-P, fluazifop-P, sethoxydim or clethodin are excluded. Applicants are making these changes in order to advance prosecution and reserve the right to file a divisional to the cancelled subject matter.

Claims 18 to 20 stand rejected for allegedly being anticipated or in the alternative being obvious over Flint et al., U.S. Patent 6,234,072 ("Flint"). In view of the foregoing, reconsideration of this rejection is requested. Applicants urge that Flint does not teach or suggest the inventive method or compositions, as claimed, since Flint does not teach or suggest that the inventive herbicidal combinations would exhibit synergistic

herbicidal activity when used to control unwanted plants in a field of tolerant or resistant sugar beets.

The present invention provides for the control of unwanted plants in a field of tolerant or resistant sugar beets. Applicants discovered that when one applies a herbicidal composition comprising a combination of two specific herbicides, one observes synergistic herbicidal activity against unwanted plants in a field of a specific crop, *viz.*, tolerant or resistant sugar beets (see examples). As Flint does not teach or suggest that this synergistic result may be obtained when these specific herbicidal combination are applied to tolerant or resistant sugar beet crops, Flint cannot teach or suggest the present invention.

First, it should be noted that this rejection does not apply to claims 32, 34, 36 to 44 and 46 because these claims do not recite glyphosate compounds. Since Flint is limited to glyphosate compositions and methods in which one of the compounds is a glyphosate compound and does not provide any motivation to substitute another herbicide for glyphosate, Flint cannot teach or suggest these claims. Moreover, Flint only describes compositions wherein the combination comprises glyphosate, sethoxydim, quizalofop, clethodim, sethoxydim and fenoxaprop. Accordingly, it is urged that claims 33, 35, 45 and 47 are patentable over Flint.

With regard to the remaining subject matter recited in the claims, it should be noted that Flint (including the provisional application) does not teach that the compositions provided for therein will exhibit synergistic activity in fields comprising tolerant or resistant sugar beet plants. Flint provides for a method for controlling volunteer glyphosate-tolerant crops in a field of glyphosate crops, such as soybean, by

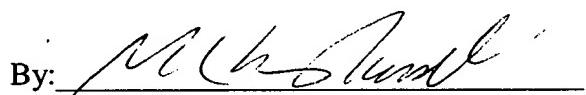
combining the glyphosate herbicide with another herbicide known to be active against the volunteer plant. Flint does not teach or suggest that the herbicidal compositions provided for therein will exhibit synergistic activity in any crops let alone sugar beet crops since Flint is completely silent with respect to synergism and is concerned about controlling volunteer glyphosate-tolerant plants in a field growing a second glyphosate-tolerant crop. Thus, in view of the foregoing, reconsideration and withdrawal of this rejection is requested.

Favorable action is requested.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By:

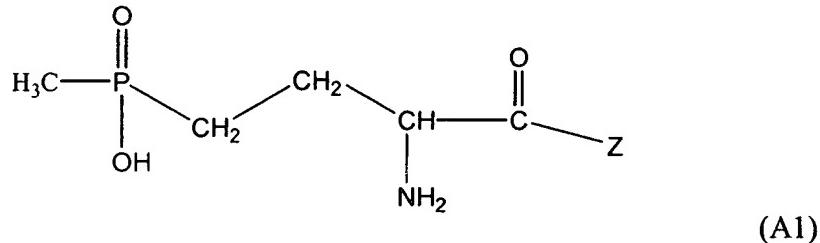

Mark W. Russell, Esq.
Registration No. 37,514
745 Fifth Avenue
New York, New York 10151
(212) 588-0800 tel.
(212) 588-0500 fax

APPENDIX SHOWING AMENDMENTS TO THE CLAIMS

30. (amended) A herbicidal composition which comprises a combination comprising

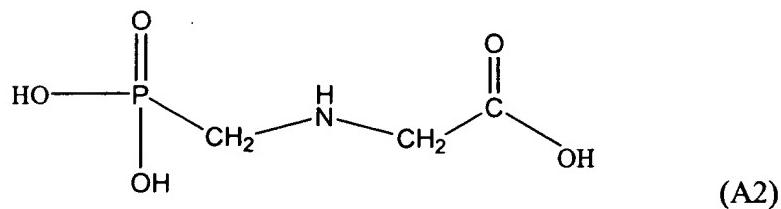
A) one or more broad-spectrum herbicide selected from the group consisting of

A1) compounds of the formula (A1)



in which Z is a radical of the formula $-\text{OH}$ or a peptide residue of the formula $-\text{NHCH}(\text{CH}_3)\text{CONHCH}(\text{CH}_3)\text{COOH}$ or $-\text{NHCH}(\text{CH}_3)\text{CONHCH}[\text{CH}_2\text{CH}(\text{CH}_3)_2]\text{COOH}$, or its esters or salts, or other phosphinothrinicin derivatives,

A2) compounds of the formula (A2) or their esters and salts,



A3) imidazolinones or their salts;

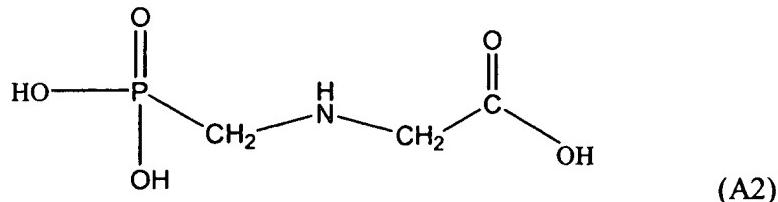
and

- B) one or more herbicidal compounds selected from the group consisting of
- B1') ethofumesate, chloridazon, triflusulfuron or metamitron,
- B2') desmedipham, phenmedipham, quinmerac, or clopralid,
- B3') quizalofop-P, fenoxyprop-P, fluazifop-P, haloxyfop,
haloxyfop-P, and cyhalofop, or the salts or esters of these
compounds and
- B4') sethoxydim, cycloxydim or clethodim

and, optionally, additives and/or formulation aids conventionally used in crop protection with the exception of herbicidal compositions wherein compound (A2) in combination with the compound triflusulfuron or its esters, metamitron, chloridazon, quizalofop-P, fluazifop-P, sethoxydim, clethodim, [or] chlopyralid or its salts.

35. (amended) A herbicidal composition which comprises a composition which comprises a combination comprising

- B) at least one broad spectrum herbicide compound selected from the group consisting of
- A2) compounds of the formula (A2) and their esters and salts,



B) at least one herbicidal compound selected from the group consisting of [quizlofop-P,] quizalofop, fenoxaprop-P, fenoxaprop, [fluazifop-P] and, fluzifop[, sexoydim and clethodim]

and, optionally, additives and/or formulation aids conventionally used in crop protection.